

North Canton City Council
Ordinance and Rules Committee

ORDINANCE 03 - 2022

An ordinance amending Chapter 1739, Violations and Abatement, of the Codified Ordinances of the City of North Canton, specifically sections 1739.01 and 1739.03 to allow for the expedited abatement of noxious weeds and rank vegetation.

WHEREAS, Council believes thirty days is an overly generous time frame to allow for the correction of nuisance violations related to noxious weeds and rank vegetation; and

WHEREAS, the City wishes to create an expedited abatement process so that such violations may be addressed in a timely manner.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 1739, Violations and Abatement, specifically sections 1739.01 of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to read as follows:

SECTION 1739.01 NOTICE OF ADMINISTRATIVE WARNING

(a) Whenever the code official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, the code official may issue a Notice of Administrative Warning to the property owner, occupant, or agent having charge of the property. The code official is authorized to issue a single Notice of Administrative Warning for a particular property to the property owner, occupant, or agent having charge of the property in order to address multiple violations of this Code.

(b) Such notice shall be in writing and shall include all of the following:

- (1) The address or real property description reasonably sufficient to identify the property in question;
- (2) A brief statement of the violation or violations of this Code;
- (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order allowing a reasonable time to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
- (4) Notification of the penalties which may result from non-compliance, including a statement of the City's right to file a lien against the property;
- (5) Notification of the opportunity to enter into a corrective action plan with the City to abate the violations; and
- (6) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property Maintenance Review Board.

(c) In addition to the Notice of Administrative Warning for violations of Section 1705.07, the Director of Administration shall publish in one newspaper of local circulation on or about the first day of April each year notice of the City's determination that noxious weeds and rank vegetation are public nuisances. The notice shall further demand that all owners of improved property within the City remove all noxious weeds and regularly cut rank vegetation to a height of less than eight inches on improved property and twelve inches on unimproved property.

Section 2. That Chapter 1739, Violations and Abatement, specifically sections 1739.03 of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to read as follows:

SECTION 1739.03 METHODS OF ABATEMENT

(a) When a property is found to be non-compliant with this Code, the code official may take any or all of the following actions upon giving two (2) days prior written notice of abatement for violations of Section 1705.07 or for all other violations thirty (30) days prior written notice of abatement to the owner, occupant, or agent having control of the property, via notice of Administrative Warning, provided, however, no notice of abatement need be given by the code official if exigent circumstances necessitate the immediate or prompt abatement of a violation.

- (1) Cause the property to be brought into compliance with this Code, which shall include the right of the City to contract with third parties, through the completion of the necessary work and/or the supply the necessary materials to bring the property into compliance, including the demolition and removal of any structures located on the property.

- (A) The property owner, occupant, or agent having charge of the property shall be invoiced by the City for all abatement costs incurred or to be incurred by the City, including all costs to third parties, in order to bring the property into compliance with this Code, and such invoice shall be paid by the owner, occupant, or agent having charge of the property within thirty (30) days of the date of the invoice.

- (B) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the property and certified to the County Auditor.

- (2) Issue a written citation to the owner, occupant, or agent having control of a property. The code official is further authorized to assess a fine as provided in Section 1739.11(b), in addition to any other fees, costs, or charges authorized by this Code or Ohio law.

- (3) Request the Law Director to institute appropriate action to restrain, correct, or abate a violation of this Code, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

- (A) The property owner, occupant, or agent having control of the property shall be invoiced by the City for the costs of any such action taken by the Law Director, and such invoice shall be paid by the owner, occupant, or agent having control of the property within thirty (30) days of the date of the invoice.

- (B) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the property and certified to the County Auditor.

(b) The costs for taking any of the above actions may include, but are not limited to, any costs incurred due to the use of employees, materials, or equipment of the City of North Canton, any costs arising out of contracts for labor, materials, or equipment, costs of service of notice(s), filing of an affidavit(s), title searches, attorney's fees, or any other necessary costs in seeking remedies for violations of this Code.

(c) The City of North Canton may cause a civil action to be commenced to recover the total costs incurred pursuant to this Chapter from the owner, occupant or agent having control of the property. All attorney's fees and court costs incurred by the City shall be considered "costs" as provided for in Section 1739.03(b).

(d) Any contract entered into between the City and a third party to enforce this Code may contain a provision that some or all of the consideration to be paid by the City under said contract, may be deferred and shall only be payable upon the City's collection of same from the owner, occupant or agent having control of the property and/or other collection after being certified to the City treasurer and collected thereby. Any interest and/or penalties attributable to said deferred payments shall bear the same rates allowed by law for delinquent real property taxes and shall be added to said deferred payments, provided, however, that any such interest and/or penalties attributable to said deferred payments shall only be payable by the City to a third party upon the City's collection of same from the owner, occupant, or agent having control of the property.

(e) With respect to any action taken by the City relating to properties found to be in violation of this Code, the costs of which are assessed as a lien against the real estate, the City reserves the right to take such legal steps as may be necessary to subordinate all other mechanics liens, mortgages, or other liens assessed against the property.

- (f) Notice of abatement as provided for in Section 1739.03 shall include:

- (1) The address or real property description reasonably sufficient to identify the property in question;
 - (2) A brief statement of the violation or violations of this Code;

- (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order allowing thirty (30) days to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
- (4) Notification of the penalties which will result from failure of compliance with the correction order, including a statement of the City's right to file a lien against the property;
- (5) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property maintenance Review Board.

(g) For purposes of this Section, a Notice of Administrative Warning as described in Section 1739.01 will qualify as notice of abatement.

Section 3. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 4. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 5. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this 7th day of February, 2022.

Attest: Benjamin R. Young
Benjamin R. Young, Clerk of Council

Stephan B. Wilder
Stephan B. Wilder, Mayor

Signed on: 7 February 2022